



DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

COPY MAILED

SEP 24 2004

OFFICE OF PETITIONS

In re Application of	:
Lee et al.	:
Application No. 10/777,431	: DECISION ON PETITION
Filed: February 12, 2004	:
Attorney Docket No. 678-1352	:
(P11800)	:

This is a decision on the petition filed July 19, 2004 (certificate of mailing dated July 12, 2004), which is being treated as a request to withdraw the "Notice of Omitted Item(s) in a Nonprovisional Application" mailed on May 12, 2004.

On February 12, 2004, applicants filed the above-identified application. On May 12, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items," stating that the application had been accorded a filing date of February 12, 2004, and advising applicants that Figures 6 and 12-14 appeared to have been omitted.

In response, on July 19, 2004 (certificate of mailing dated July 12, 2004), applicants filed the present petition, 14 sheets of drawings, including copies of Figures 6 and 12-14, and the \$130.00 petition fee. The petition was accompanied by a postcard receipt containing a date-stamp of February 12, 2004.

Upon review of the record, Figures 6 and 12-14 have not been located in the official file. The Office notes that the date-stamped postcard receipt contains a notation by a USPTO employee regarding Figures 6 and 12-14. Additionally, the transmittal indicates that the USPTO did not receive Figures 6 and 12-14 on filing. Accordingly, these facts indicate that Figures 6 and 12-14 were not misplaced in the Office because the USPTO employee who opened the envelope recognized that Figures 6 and 12-14 were intended to be filed and found the drawings to be missing.

Therefore, the Notice of Omitted Items was properly mailed. The petition is dismissed.

It is noted that the specification stated that the present application incorporated by reference the foreign application, Korean Application No. 2003-9665, filed on February 15, 2003. Applicants state that the Korean Application contains Figures 6 and 12-14.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

. . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (Emphasis supplied).

Applicants may file an amendment to the examiner to include Figures 6 and 12-14 without a petition.

The \$130.00 petition fee will not be refunded because the filing of the petition was not necessitated by USPTO error.

The Office of Initial Patent Examination is directed to process the application with a filing date of February 12, 2004, using the application papers filed on that date. Figures 6 and 12-14 will NOT be entered at this time.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions